

Caution: DRAFT TAX PRODUCT

This is an advance proof copy of an IRS tax form, instruction, or publication. It may be subject to change and OMB approval before it is officially released.

If you have any comments on this draft, you can submit them to us on our web page titled [Comment on Forms and Publications](#). Include the form or publication number in the subject. You may make comments anonymously, or you may include your name and email address or phone number. We will not be able to respond to all comments due to the high volume we receive, but we will carefully consider each suggestion. Please note that we may not be able to consider some comments until the subsequent revision of the product.

The final instructions for Form 8839 will be posted at www.irs.gov/pub/irs-pdf/i8839.pdf. Until those instructions are final, information about the draft instructions is available at that link.

2010



Department of the Treasury
Internal Revenue Service

Instructions for Form 8839

Qualified Adoption Expenses

Note. If additional information with respect to Form 8839 develops later in the filing season, the IRS will make that information available at www.irs.gov/form8839.

What's New

Expanded adoption credit. The adoption credit is now refundable, meaning that you may claim it even if you owe no tax, for qualified adoption expenses that first became allowable in 2010 and for adoptions finalized in 2010. Adoption credit carryforwards from 2005 through 2009 also are refundable in 2010. See Notice 2010-66, 2010-42 I.R.B. 437, available at www.irs.gov/irb/2010-42_irb/ar09.html.

Previously, the adoption credit was nonrefundable, meaning that it only could be used to reduce your tax liability, but credit amounts in excess of tax liability could be carried forward for up to 5 subsequent years.

The maximum credit and the exclusion for employer-provided benefits has increased to \$13,170 per eligible child. This amount begins to phase out if you have modified adjusted gross income in excess of \$182,520 and is completely phased out for modified adjusted gross income of \$222,520 or more.

New documentation requirements. To claim the refundable adoption credit, you must complete and attach Form 8839 to your income tax return. Additionally, you must include one or more adoption-related documents to support your claim for the credit. Documentation must be provided for each eligible child claimed on Form 8839 and is required whether the credit is claimed for a 2010 adoption (or adoption attempt) or for a credit carryforward from a previous adoption (or adoption attempt). The documentation required varies, depending on whether or not the adoption has been finalized and whether the child has special needs. See the instructions for line 1 for the specific requirements for each child claimed.

Paper filing required. Because of the new documentation requirements, if you are filing Form 8839 to claim the adoption credit or to exclude from income any employer-provided adoption benefits, you cannot file your income tax return and Form 8839 electronically. **You must file paper returns.**

General Instructions

Purpose of Form

Use Form 8839 to figure your adoption credit and any employer-provided adoption benefits you can exclude from your income. You can claim both the exclusion and the credit for expenses of adopting an eligible child. For example, depending on the cost of the adoption, you may be able to exclude up to \$13,170 from your income and also be able to claim a credit of up to \$13,170. But, you cannot claim both a credit and exclusion for the same expenses. See *Qualified Adoption Expenses* and *Employer-Provided Adoption Benefits*, later.

Adoption credit. Use Form 8839, Part II, to figure the adoption credit you can take on Form 1040, line 71,

checkbox b or Form 1040NR, line 66, checkbox b. You may be able to take this credit in 2010 if any of the following statements are true.

1. You paid qualified adoption expenses in:
 - a. 2009 and the adoption was not final at the end of 2009, or
 - b. 2010 and the adoption became final in or before 2010.
2. You adopted a child with special needs and the adoption became final in 2010. (In this case, you may be able to take the credit even if you did not pay any qualified adoption expenses.)
3. You paid qualified adoption expenses in connection with the adoption of an eligible foreign child in:
 - a. 2010 or prior years and the adoption became final in 2010, or
 - b. 2010 and the adoption became final before 2010.See the instructions for line 1, column (e), on page 5.
4. You have a carryforward of an adoption credit from a prior year.

Income exclusion for employer-provided adoption

benefits. Use Form 8839, Part III, to figure the employer-provided adoption benefits you can exclude from your income on Form 1040, line 7, or Form 1040NR, line 8. You may be able to exclude these benefits from income if your employer had a qualified adoption assistance program (see *Employer-Provided Adoption Benefits* on page 2) and any of the following statements are true.

1. You received employer-provided adoption benefits in 2010. However, special rules apply for benefits received in connection with the adoption of an eligible foreign child. See the instructions for line 1, column (e), on page 5.
2. You adopted a child with special needs and the adoption became final in 2010.
3. You received employer-provided adoption benefits in connection with the adoption of an eligible foreign child in:
 - a. 2010 or prior years and the adoption became final in 2010, or
 - b. 2010 and the adoption became final before 2010.See the instructions for line 1, column (e), on page 5.

For purposes of calculating the adoption credit in Part II, qualified adoption expenses (defined below) do not include expenses reimbursed by an employer under a qualified adoption assistance program (defined on page 2). For this reason, you must complete Form 8839, Part III, before you can figure the credit, if any, in Part II.



You cannot exclude employer-provided adoption benefits if your employer is an S corporation in which you own more than 2% of the stock or stock with more than 2% of the voting power.

Note on welfare benefits and the adoption credit. Any refund you receive as a result of taking the adoption credit will not be used to determine if you are eligible for the following programs or how much you can receive from them. But if the refund you receive because of the adoption credit is not spent within a certain period of time, it can count as an asset (or resource) and affect your eligibility.

- Temporary Assistance for Needy Families (TANF).

- Medicaid and supplemental security income (SSI).
- Supplemental Nutrition Assistance Program (food stamps) and low-income housing.

Definitions

Eligible Child

An eligible child is:

- Any child under age 18. If the child turned 18 during the year, the child is an eligible child for the part of the year he or she was under age 18.
- Any disabled person physically or mentally unable to take care of himself or herself.



If you and another person (other than your spouse if filing jointly) adopted or tried to adopt an eligible child, see the instructions for line 2 on page 6 (or line 15 on page 7, if applicable) before completing Part II (or Part III).

Qualified Adoption Expenses

Qualified adoption expenses are reasonable and necessary expenses directly related to, and for the principal purpose of, the legal adoption of an eligible child.

Qualified adoption expenses include:

- Adoption fees,
- Attorney fees,
- Court costs,
- Travel expenses (including meals and lodging) while away from home, and
- Re-adoption expenses relating to the adoption of a foreign child.

Qualified adoption expenses do not include expenses:

- For which you received funds under any state, local, or federal program,
- That violate state or federal law,
- For carrying out a surrogate parenting arrangement,
- For the adoption of your spouse's child,
- Paid or reimbursed by your employer or any other person or organization, or
- Allowed as a credit or deduction under any other provision of federal income tax law.

Employer-Provided Adoption Benefits

In most cases, employer-provided adoption benefits are amounts your employer paid directly to either you or a third party for qualified adoption expenses under a qualified adoption assistance program. But see *Children with special needs* on the next page. A qualified adoption assistance program is a separate written plan set up by an employer to provide adoption assistance to its employees. For more details, see Pub. 15-B, Employer's Tax Guide to Fringe Benefits.

Employer-provided adoption benefits should be shown in box 12 of your Form(s) W-2 with code T. Your salary may have been reduced to pay these benefits. You may also be able to exclude amounts not shown in box 12 of your Form W-2 if all of the following apply.

- You adopted a child with special needs. See the instructions for line 1, column (d), on page 5 for the definition of a child with special needs.
- The adoption became final in 2010.
- Your employer had a qualified adoption assistance program as described above.

The following examples help illustrate how qualified adoption expenses and employer-provided adoption benefits apply to the maximum adoption credit allowed.

Example 1. Lisa Green paid \$10,000 in qualified adoption expenses for the adoption of an eligible child. Under a qualified adoption assistance program, Lisa's employer reimbursed her for \$4,000 of those expenses. Lisa

may exclude the \$4,000 reimbursement from her income. However, because of the employer reimbursement, \$4,000 of her expenses no longer meet the definition of qualified adoption expenses. As a result, Lisa's maximum adoption credit is limited to \$6,000 (\$10,000 – \$4,000).

Example 2. Elaine French paid \$10,000 in qualified adoption expenses for the adoption of an eligible child. Under a qualified adoption assistance program, Elaine's employer paid an additional \$6,000 of qualified adoption expenses on her behalf. Her total qualified adoption expenses are \$16,000 (\$10,000 + \$6,000). Because the expenses paid by Elaine were different from the expenses paid by her employer, Elaine may exclude the \$6,000 that her employer paid from her income and may claim a credit for the \$10,000 of qualified adoption expenses she paid.

Example 3. Jason Smith paid \$30,000 in qualified adoption expenses to adopt an eligible foreign child, and the adoption became final in 2010. Under a qualified adoption assistance program, Jason's employer reimbursed him for \$13,170 of those expenses. Jason may exclude the \$13,170 reimbursement from his income. The remaining \$16,830 of expenses (\$30,000 – \$13,170) continue to be qualified adoption expenses that are eligible for the credit. However, Jason's credit is dollar-limited to \$13,170. The remaining \$3,660 (\$30,000 – \$13,170 – \$13,170) may never be claimed as a credit or excluded from gross income.

Who Can Take the Adoption Credit or Exclude Employer-Provided Adoption Benefits?

You may be able to take the credit or exclusion if all three of the following statements are true.

1. Your filing status is single, head of household, qualifying widow(er), or married filing jointly. Generally, if you are married, you must file a joint return to take the credit or exclusion. However, if you are married and filing a separate return, you may be able to take the credit or exclusion on a separate return if you are considered unmarried because you are legally separated or living apart from your spouse and you meet certain other requirements. See *Married Persons Filing Separate Returns* below.
2. Your modified AGI is less than \$222,520 or you have a carryforward of an adoption credit from a prior year. To figure your modified AGI, see the instructions for line 8 on page 6 (for the credit) or line 22 on page 7 (for the exclusion).
3. You report the required information about the eligible child in Part I.

Married Persons Filing Separate Returns

You may be able to take the credit or exclusion if all of the following apply.

- Statements (2) and (3) above under *Who Can Take the Adoption Credit or Exclude Employer-Provided Adoption Benefits* are true.
- You lived apart from your spouse during the last 6 months of 2010.
- The eligible child lived in your home more than half of 2010.
- You provided over half the cost of keeping up your home.

When To Take the Credit or Exclusion

When you can take the adoption credit or exclusion depends on whether the eligible child is a citizen or resident of the United States (including U.S. possessions) at the time the adoption effort begins.

Child who is a U.S. citizen or resident. If the eligible child is a U.S. citizen or resident, you can take the adoption credit

or exclusion even if the adoption never became final. Take the credit or exclusion as shown in the following tables.

| IF you pay qualifying expenses in... | THEN take the credit in... |
|---|--|
| Any year before the year the adoption becomes final | The year after the year of the payment. |
| The year the adoption becomes final | The year the adoption becomes final. |
| Any year after the year the adoption becomes final | The year of the payment. |

| IF your employer pays for qualifying expenses under an adoption assistance program in... | THEN take the exclusion in.... |
|--|--------------------------------|
| Any year | The year of the payment. |


Children with special needs. If you adopt a child with special needs you may be able to exclude up to \$13,170 and claim a credit for an additional \$13,170 (minus any qualified adoption expenses claimed for the same child in a prior year) even if you or your employer did not pay any qualified adoption expenses. See the instructions for line 1, column (d), on page 5 for more information.

Foreign child. If the eligible child is not a U.S. citizen or resident, you cannot take the adoption credit or exclusion unless the adoption becomes final. Take the credit or exclusion as shown on the following tables.

| IF you pay qualifying expenses in... | THEN take the credit in... |
|---|--------------------------------------|
| Any year before the year the adoption becomes final | The year the adoption becomes final. |
| The year the adoption becomes final | The year the adoption becomes final. |
| Any year after the year the adoption becomes final | The year of the payment. |

| IF your employer pays for qualifying expenses under an adoption assistance program in... | THEN take the exclusion in.... |
|--|--------------------------------------|
| Any year before the year the adoption becomes final | The year the adoption becomes final. |
| The year the adoption becomes final | The year the adoption becomes final. |
| Any year after the year the adoption becomes final | The year of the payment. |

If your employer makes adoption assistance payments in a year before the adoption of a foreign child is final, you must include the payments in your income in the year of the payment. Then, on your return for the year the adoption becomes final, you can make an adjustment to take the exclusion.

 **Your employer is not required to withhold income tax on payments for qualifying expenses under an adoption assistance program. If you must include the payments in income in the year paid because your adoption of a foreign child is not final, your withholding may not be enough to cover the tax on those payments. You may need to give your employer a new Form W-4 to adjust your withholding or make estimated tax payments to avoid a penalty for underpayment of estimated tax.**

Carryforward From Prior Years (2005–2009)

The *Carryforward From Prior Years* instructions are not yet final. When they have been finalized, we will post these instructions as final at www.irs.gov/pub/irs-pdf/i8839.pdf.

Specific Instructions

Part I—Information About Your Eligible Child or Children Line 1

Complete all columns that apply to the eligible child you adopted or tried to adopt and attach the appropriate documentation. If you do not give correct or complete information and attach the appropriate documentation, your credit and any exclusion may be disallowed.

Documentation requirements. You must provide at least one of the documents described below to support your claim for each eligible child on line 1. Attach the documents to Form 8839 and file with your income tax return. Copies are acceptable unless otherwise specified. You may redact sensitive personal information from an adoption order or decree or from a special needs determination; however, the IRS may require you to provide an unredacted copy at a later date.

Be sure to write your name and social security number on each document. Because of these documentation requirements, you must file your income tax return and Form 8839 by paper only. You cannot file electronically.

Domestic adoptions that have not been finalized. For a domestic adoption that was not finalized in 2010 or earlier, attach one or more of the following documents.

1. An adoption taxpayer identification number, obtained by the taxpayer for the child, included on the taxpayer's income tax return (instead of attaching a document).
2. A home study completed by an authorized placement agency.
3. A placement agreement with an authorized placement agency.
4. A document signed by a hospital official authorizing the release of a newborn child from the hospital to the taxpayer for legal adoption.
5. A court document (a copy with official seal), ordering or approving the placement of a child with the taxpayer for legal adoption.
6. An original affidavit or notarized statement signed under penalties of perjury from an adoption attorney, government official, or other authorized person, stating that the signer:
 - a. Placed or is placing a child with the taxpayer for legal adoption, or
 - b. Is facilitating the adoption process for the taxpayer in an official capacity, with a description of the actions taken to facilitate the process.

Domestic and foreign adoptions that have been finalized. For domestic adoptions finalized in 2010 or before, and foreign adoptions finalized in 2010, check the box in column (g) and attach one or more of the following documents:

1. For a domestic or foreign adoption finalized in the United States, the adoption order or decree (a copy with official seal).
2. For an adoption governed by the Hague Convention and finalized in another country:
 - a. The Hague Adoption Certificate (Immigrating Child),

Exclusion of Prior Year Benefits Worksheet
(for the adoption of a foreign child that became final in 2010)

Keep for Your Records



1. Enter the total employer-provided adoption benefits you received in **2010 and all prior years** for the adoption of the foreign child 1. _____
2. Enter **\$13,170**. If you and another person (other than your spouse if filing jointly) each received employer-provided adoption benefits in 2010 or any prior year to adopt the same child, see instructions below. 2. _____
3. Enter the **smaller** of line 1 or line 2 here and on Form 8839, line 15. If necessary, cross out the preprinted amount on line 15 and enter the result above the preprinted amount 3. _____

Next:

- Enter -0- on Form 8839, line 16.
 - Enter the amount from line 3 above on Form 8839, line 17.
 - On Form 8839, line 18, enter the total amount of employer-provided adoption benefits received in **2010 and all prior years**. On the dotted line next to line 18, enter "PYAB" and the total amount of benefits you received **before 2010**.
 - Complete Form 8839 through line 26. Then, complete lines 4 through 9 below to figure the amount of any prior year benefits you can exclude and the taxable benefits, if any, to enter on Form 8839, line 27.
4. Is the amount on your 2010 Form 8839, line 26, less than the amount on Form 8839, line 19?
☐ **No.** Skip lines 4 through 6 and go to line 7.
☐ **Yes.** Subtract Form 8839, line 26 from line 19 4. _____
 5. Enter the total employer-provided adoption benefits you received **before 2010** included on Form 8839, line 18, for all children 5. _____
 6. **Taxable benefits.** Subtract line 5 from line 4. If zero or less, enter -0-. Enter the result here and on Form 8839, line 27. If more than zero, also include this amount on line 7 of Form 1040 or line 8 of Form 1040NR, and enter "AB" on the dotted line 6. _____
 7. Enter the amount from Form 8839, line 26 7. _____
 8. Enter the total **2010** employer-provided adoption benefits included on Form 8839, line 18, for all children . . . 8. _____
 9. **Prior year excluded benefits.** Subtract line 8 from line 7. If zero or less, **stop**; you cannot exclude any of your prior year benefits 9. _____
- Next.** Figure the total you would enter on line 7 of Form 1040 or line 8 of Form 1040NR **before** you exclude the amount from line 9 above. Then, subtract the amount from line 9 above from that total. Enter the result on line 7 of Form 1040 or line 8 of Form 1040NR. On the dotted line next to the line for wages, enter "PYAB" and the amount from line 9 above.

Worksheet Instructions

Line 2. The maximum amount of employer-provided adoption benefits that can be excluded from income is \$13,170 per child. If you and another person (other than your spouse if filing jointly) each received employer-provided adoption benefits to adopt the same child, the \$13,170 limit must be divided between the two of you. You can divide it in any way you both agree. Enter your share of the \$13,170 limit on line 2 of the worksheet above.

- b. The IH-3 visa, or
 - c. A foreign adoption decree (a copy with official seal) translated into English.
3. For a foreign adoption from a country that is not party to the Hague Convention:
- a. A foreign adoption decree (a copy with official seal) translated into English or
 - b. An IR-2 or IR-3 visa.

Adoption of child with special needs. For adoption of a child with special needs, in addition to the requirements above, you must check the box in column (d) and attach a copy of the state determination of special needs to your income tax return.

For these purposes, an order or decree must include information establishing that the taxpayer's adoption of the eligible child has been finalized and the date it was finalized. A special needs determination must include information

establishing that the state has made a determination of special needs for the eligible child.

Carryforward documentation requirements. If you are filing Form 8839 only to claim the credit for a carryforward from a previous year (2005-2009), you must attach documentation to support your claim for the credit carryforward. If the adoption was finalized in 2010 or earlier, attach one or more of the documents listed under *Domestic and foreign adoptions that have been finalized*, earlier. If the adoption has not been finalized, attach one or more of the documents listed under *Domestic adoptions that have not been finalized*, earlier.



If this is the first year that you are filing Form 8839 to claim the credit carryforward, you must amend prior year returns. See Amending prior year returns under Carryforward From Prior Years (2005–2009), earlier.

Attempted Adoptions

If you made more than one attempt to adopt one eligible child, combine the amounts you spent and complete only the "Child 1" line. Do not report the additional attempt(s) on the "Child 2" or "Child 3" line. Complete the "Child 2" or "Child 3" lines only if you adopted or tried to adopt two or three eligible children.

Example. You planned to adopt one child. You had one unsuccessful attempt to adopt a child and later successfully adopted a different child. Complete only the "Child 1" line because you made more than one attempt to adopt one eligible child.



If you filed Form 8839 for a prior year in connection with this adoption, enter your 2010 information on the same line (Child 1, Child 2, or Child 3) that you used in the prior year.

More Than Three Eligible Children

If you adopted or tried to adopt more than three eligible children, fill in and attach as many Forms 8839 as you need to list them. Also, enter "See Attached" to the right of the Caution below line 1.

For Part II, fill in lines 2 through 6 for each child. But fill in lines 7 through 14 on only one Form 8839. The amount on line 7 of that Form 8839 should be the combined total of the amounts on line 6 of all the Forms 8839.

For Part III, fill in lines 15 through 18 and 20 for each child. But fill in lines 19 and 21 through 27 on only one Form 8839. The amount on line 19 of that Form 8839 should be the combined total of the amounts on line 18 of all the Forms 8839. The amount on line 21 of that form should be the combined total of the amounts on line 20.

Column (c)

A child is disabled if the child is physically or mentally unable to take care of himself or herself.

Column (d)

A child is a child with special needs if all three of the following statements are true.

1. The child was a citizen or resident of the United States or its possessions at the time the adoption process began.
2. A state (including the District of Columbia) has determined that the child cannot or should not be returned to his or her parents' home.
3. The state has determined that the child will not be adopted unless assistance is provided to the adoptive parents. Factors used by states to make this determination include:
 - a. The child's ethnic background and age,
 - b. Whether the child is a member of a minority or sibling group, and
 - c. Whether the child has a medical condition or a physical, mental, or emotional handicap.

You may be able to claim a credit or exclusion for the adoption of a child with special needs even if you did not have any qualified adoption expenses. See line 20 and the instructions for line 5.



If you check the box in column (d) indicating the child has special needs, be sure to attach a copy of the state's determination to Form 8839.

Column (e)

A child is a foreign child if he or she was not a citizen or resident of the United States or its possessions at the time the adoption process began.

Special rules. If you paid qualified adoption expenses in 2010 or any prior year in connection with the adoption of a

foreign child and the adoption became final in 2010, you can use the total expenses you paid in 2010 and all prior years in determining the amount to enter on line 5. If you and another person (other than your spouse if filing jointly) each paid qualified adoption expenses to adopt the same child, the total qualified expenses must be divided between the two of you. You can divide it in any way you both agree.

If the adoption did not become final by the end of 2010, you cannot take the adoption credit for that child in 2010. If the adoption becomes final in a later year, you may be able to take a credit for the expenses in that year.

To find out when a foreign adoption is treated as final, see Rev. Proc. 2005-31, 2005-26 I.R.B. 1374, available at www.irs.gov/irb/2005-26_IRB/ar14.html, and Rev. Proc. 2010-31, 2010-40 I.R.B. 413, available at www.irs.gov/irb/2010-40_IRB/ar10.html.



The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention) entered into force for the United States on April 1, 2008. The Hague Adoption Convention applies if you adopted a child from a country that is party to the Hague Adoption Convention and you filed your application and petition (Forms I-800A and I-800) with the U.S. Citizenship and Immigration Service after March 31, 2008. See www.adoption.state.gov for more information on the Hague Adoption Convention, the application and petition, and a complete list of countries that are parties to the Convention.

If you received employer-provided adoption benefits in 2010 in connection with the adoption of a foreign child and the adoption did not become final by the end of 2010, you must include the benefits in the total entered on Form 1040, line 7, or Form 1040NR, line 8. Also, enter "AB" (adoption benefits) on the dotted line next to Form 1040, line 7, or Form 1040NR, line 8. If the adoption becomes final in a later year, you may be able to exclude the benefits from your income in that year.

Exclusion of prior year benefits. If you received employer-provided adoption benefits before 2010 in connection with the adoption of a foreign child and the adoption became final in 2010, you may be able to exclude part or all of those benefits from your 2010 income. To find out if you can, complete the worksheet on page 4. You also must use the worksheet to complete Form 8839, Part III, and to figure any taxable benefits to enter on Form 8839, line 27.

If the adoption of more than one foreign child became final in 2010, complete lines 1 through 3 of the worksheet on page 4 separately for each foreign child and use the combined totals to complete lines 4 through 9 of the worksheet.



If you check the box in column (e), you must also check the box in column (g), indicating the adoption was finalized in 2010 or earlier, and attach the appropriate documentation.

Column (f)

Enter the child's identifying number. This can be a social security number (SSN), an adoption taxpayer identification number (ATIN), or an individual taxpayer identification number (ITIN).

Enter the child's SSN if the child has an SSN or you will be able to get an SSN in time to file your tax return. Apply for an SSN using Form SS-5.

If you are in the process of adopting a child who is a U.S. citizen or resident alien but you cannot get an SSN for the child in time to file your return, apply for an ATIN using Form W-7A. However, if the child is not a U.S. citizen or resident alien, apply instead for an ITIN using Form W-7.

Column (g)

Check the box in column (g) if the adoption for each child became final in 2010 or earlier.



Attach the appropriate documentation, listed beginning on page 3, supporting your claim for a finalized adoption for each child for whom you checked this box.

Part II—Adoption Credit

Line 2

The maximum adoption credit is \$13,170 per child. If you and another person (other than your spouse if filing jointly) each paid qualified adoption expenses to adopt the same child, the \$13,170 limit must be divided between the two of you. You can divide it in any way you both agree. Cross out the preprinted entry on line 2 and enter above line 2 your share of the \$13,170 limit for that child.

Line 3

If you filed Form 8839 for a prior year for the same child, enter on line 3 the total of the amounts shown on lines 3 and 6 of the last form you filed for the child.

Line 5



Special rules apply if you paid expenses in connection with the adoption of an eligible foreign child. See the instructions for line 1, column (e), on page 5 for details.

Enter on line 5 the total qualified adoption expenses (as defined on page 2) you paid in:

- 2009 if the adoption was not final by the end of 2010,
- 2009 and 2010 if the adoption became final in 2010, or
- 2010 if the adoption became final before 2010.



Expenses reimbursed by your employer under a qualified adoption assistance program are not qualified adoption expenses and must not be entered on line 5. See the examples following Employer-Provided Adoption Benefits on page 2.

Special needs adoption. If you adopted a child with special needs and the adoption became final in 2010, enter on line 5:

- \$13,170, minus
- Any qualified adoption expenses you used to figure any adoption credit you claimed for the same child in a prior year. This is the amount you entered on line 3 of Form 8839 for this child.

If you did not claim any adoption credit for the child in a prior year, enter \$13,170 on line 5 even if your qualified adoption expenses for the child were less than \$13,170 (and even if you did not have any qualified adoption expenses for this child).

Unsuccessful adoption. If you paid qualified adoption expenses in an attempt to adopt a child and the attempt was unsuccessful, treat those expenses in the same manner as expenses you paid for adoptions not final by the end of the year.

Example. You paid \$3,000 of qualifying adoption expenses in 2009 in an attempt to adopt a child. You paid \$2,000 in qualified adoption expenses early in 2010. However, the adoption attempt is unsuccessful. Enter \$3,000 on line 5. The \$2,000 paid in 2010 may qualify in 2011.

Line 8

Use the following chart to find your modified adjusted gross income to enter on line 8.

| IF you file . . . | THEN enter on line 8 the amount from . . . |
|-------------------|---|
| Form 1040 | Form 1040, line 38, increased by the total of any: <ul style="list-style-type: none">• Exclusion of income from Puerto Rico and• Amounts from—<ul style="list-style-type: none">• Form 2555, lines 45 and 50,• Form 2555-EZ, line 18, and• Form 4563, line 15. |
| Form 1040NR | Form 1040NR, line 37. |

Modified Adjusted Gross Income (AGI) Worksheet—Line 22

Keep for Your Records



Before you begin:

- ✓ If you file Form 1040, complete lines 8a through 21, 23 through 32, and 36 if they apply.
- ✓ If you file Form 1040NR, complete lines 9a through 21, 24 through 32, and 35 if they apply.

1. Enter the amount you would enter on line 7 of Form 1040 or line 8 of Form 1040NR if you could exclude the total amount on Form 8839, line 19 **1.** _____
2. Enter the amount from Form 8839, line 19 **2.** _____
3. **Form 1040 filers**, enter the total of lines 8a, 9a, 10 through 14, 15b, 16b, 17 through 19, 20b, and 21. **Form 1040NR filers**, enter the total of lines 9a, 10a, 11 through 15, 16b, 17b, and 18 through 21 **3.** _____
4. Add lines 1, 2, and 3 **4.** _____
5. **Form 1040 filers**, enter the total of lines 23 through 32, and any write-in adjustments entered on the dotted line next to line 36. **Form 1040NR filers**, enter the total of lines 24 through 32 and any write-in adjustments entered on the dotted line next to line 35. **5.** _____
6. Subtract line 5 from line 4 **6.** _____

Form 1040 filers, increase the amount on line 6 above by the total of the following amounts. Enter the total on Form 8839, line 22.

- Any amount from **Form 2555**, lines 45 and 50, **Form 2555-EZ**, line 18, and **Form 4563**, line 15, and
- Any exclusion of income from Puerto Rico.

Form 1040NR filers, enter on Form 8839, line 22, the amount from line 6 above.

Line 13—Credit Carryforward

If you filed Form 8839 in a previous year and have an unused credit carryforward from 2009, that amount can be found on line 23 of your credit carryforward worksheet on page 5 of the 2009 Instructions for Form 8839.



You must attach the appropriate documentation required, listed beginning on page 3 of these instructions, to support your claim for a credit carryforward. If you did not previously file Form 8839, you must amend your prior years' income tax returns. See Carryforward From Prior Years (2005-2009), earlier.

Part III—Employer-Provided Adoption Benefits

Line 15

The maximum amount that can be excluded from income for employer-provided adoption benefits is \$13,170 per child. If you and another person (other than your spouse if filing jointly) each received employer-provided adoption benefits in connection with the adoption of the same eligible child, the \$13,170 limit must be divided between the two of you. You can divide it in any way you both agree. Cross out the preprinted entry on line 15 and enter above line 15 your share of the \$13,170 limit for that child.

Line 16

If you received employer-provided adoption benefits in a prior year for the same child, enter on line 16 the total of the

amounts shown on lines 20 and 24 of the last Form 8839 you filed for the child.



Special rules apply if the prior year benefits were received in connection with the adoption of a foreign child and the adoption became final in 2010. See Exclusion of prior year benefits on page 5.

Line 20

If the child was a child with special needs and the adoption became final in 2010, enter the amount from line 17 only if your employer has a qualified adoption assistance program, as defined on page 2 under *Employer-Provided Adoption Benefits*. This is true regardless of whether you received any employer-provided adoption benefits under this plan.

If your employer has no qualified adoption assistance program, you must enter the smaller of line 17 or line 18.

Line 22

Use the worksheet on page 6 to figure your modified adjusted gross income.



Your modified adjusted gross income (AGI) for the adoption credit may not be the same as the modified AGI figured in the worksheet on page 6. If you are taking the credit, be sure to read the instructions for line 8 on page 6 before you enter an amount on that line.